

Frederick Warwick Michael STENTIFORD
Serial No. 10/537,540
January 23, 2009

AMENDMENTS TO THE DRAWINGS

Applicant submits concurrently herewith two (2) sheets of annotated drawings illustrating Figs. 1 and 2, accompanied by two (2) replacement sheets incorporating the changes to the drawings.

Attachments: Replacement Sheets (2)
Annotated Sheets Showing Changes (2)

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REMARKS/ARGUMENTS

Reconsideration of this application is respectfully requested.

As suggested, the application has been reviewed and amended above so as to place it in more traditional U.S. format (e.g., by adding suitable headings throughout the specification).

In response to the rejection of claims 1-8 under 35 U.S.C. §101 as allegedly claiming non-statutory subject matter, the Examiner's recommendation has been followed by amending the independent claims to make it clear that the recited method steps are practiced by using a computer to perform them.

The rejection of claims 1 and 5-8 under 35 U.S.C. §102 as allegedly anticipated by Wood is respectfully traversed.

Wood does disclose the selection of images on the basis of their similarity, and Wood does disclose that the display images have "feature vectors" that may perhaps be said to be metadata. However there is no suggestion in Wood of the claimed feature that the metadata should possess all of the three claimed items of information concerning the relationship between the displayed image and a further stored image. Namely, Wood totally fails to teach (or suggest) storing metadata specifying (a) a part of the respective

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image, (b) another stored image, and (c) a measure of the degree of similarity between the specified part and the specified other stored image.

The Examiner alleges that Wood does teach such metadata, and relies for this assertion on Wood at sections 2.1 and 2.2, pages 14-15. However, although Wood does here teach segmenting an image and extracting features unique to the segmented region, the extracted features 0-16 identified in section 2.1 have nothing to do with another stored image – let alone a measure of the degree of similarity between this segmented part of an image and a specified other stored image. Instead, the Wood feature extraction process appears to extract data related only to the segmented image region itself.

It is only later during real-time query sessions that Wood begins to make any comparisons between images. The Wood “feature vector” for a given image does not appear to have anything stored therein relating to any other image. Instead, Wood teaches that any such comparative relationship must be generated in real time during a query session when one tries to minimize the Euclidian distance measured between a region of interest for a key image and a similar region of other images. It does not appear that any of this comparison result is ever stored back in a feature vector with an image in the database as metadata for that image.

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Instead, the user is given an option during an on-line real-time session to retain “positive and negative class examples to contribute to a class database which is stored between sessions.” Although a textual tag can be assigned to the class for ease of future identification, this merely permits a user to go back to a previous query state. It does not result in any change to the feature vector associated with the images as metadata. Accordingly, to the extent relevant, Wood actually teaches away from the applicant’s claimed invention.

Given such fundamental deficiencies of Wood with respect to the above-discussed aspects of independent claim 1, it is not necessary at this time to discuss additional deficiencies of this reference with respect to other aspects of the rejected claims. Suffice it to note that, as a matter of law, it is impossible for a reference to anticipate any claim unless it teaches each and every feature of that claim.

The rejection of claim 2 under 35 U.S.C. §103 as allegedly being made “obvious” based on Wood in view of Westerman ‘118 is also respectfully traversed.

Fundamental deficiencies of Wood have already been discussed above with respect to parent claim 1. Westerman does not supply those deficiencies.

Of course, applicant has never claimed to have invented a gaze-tracker *per se*. Indeed, the specification itself explains that such is known in the prior art.

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Nevertheless, in the claimed context when considered “as a whole” (as 35 U.S.C. §103 requires), this claim defines a novel and patentable use of such a gaze-tracker.

For example, even though the applicant’s novel claimed structure of metadata pre-stored in the database itself greatly reduces required search response times, the use of a gaze-tracker in the context of this claimed stored metadata aspect improves the response time even further. In this relevant context, the gaze-tracker input is especially advantageous, not merely because of its speed – but also because the user does not have to make a conscious decision to point at a particular part of the image, as would be the case with mouse inputs. Instead, the user is free to use the mouse for other inputs (e.g., the options to hold images or bar images at steps 8 and 9 as shown in Fig. 2).

The rejection of claims 3 and 4 under 35 U.S.C. §103 as allegedly being made “obvious” based on Wood in view of Rui is also respectfully traversed.

Once again, fundamental deficiencies of Wood have already been discussed above with respect to parent claim 1. Rui does not supply those deficiencies. Accordingly, it is not necessary at this time to discuss additional deficiencies of this allegedly “obvious” combination of references. Suffice it to note that, as a matter of law, it is impossible to

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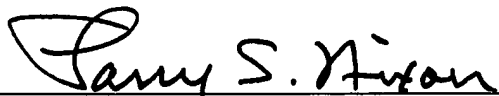
properly support even a *prima facie* case of obviousness unless the cited collection of references at least teaches each and every feature of the rejected claim.

The Examiner's attention is also drawn to new claims 9-16 which correspond to claims now allowed in Europe (see granted EP 1,573,589 B). These claims are also believed to be patentably distinct from the cited references because, *inter alia*, new independent claim 9 requires the stored images to be stored with metadata comprising at least one entry specifying the three items discussed above.

Accordingly, this entire application is now believed to be in allowable condition, and a formal notice to that effect is earnestly solicited.

Respectfully submitted,

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1/2

ANNOTATED MARKED UP DRAWINGS
FOR SN 10/537,540

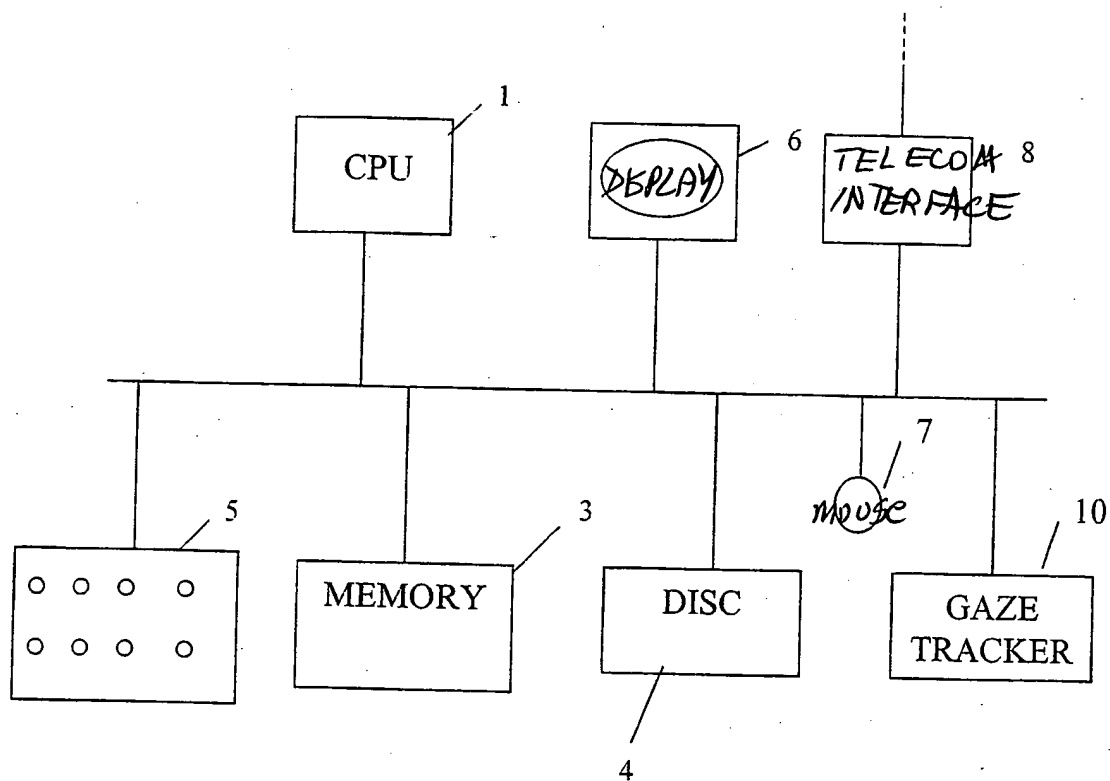


Figure 1

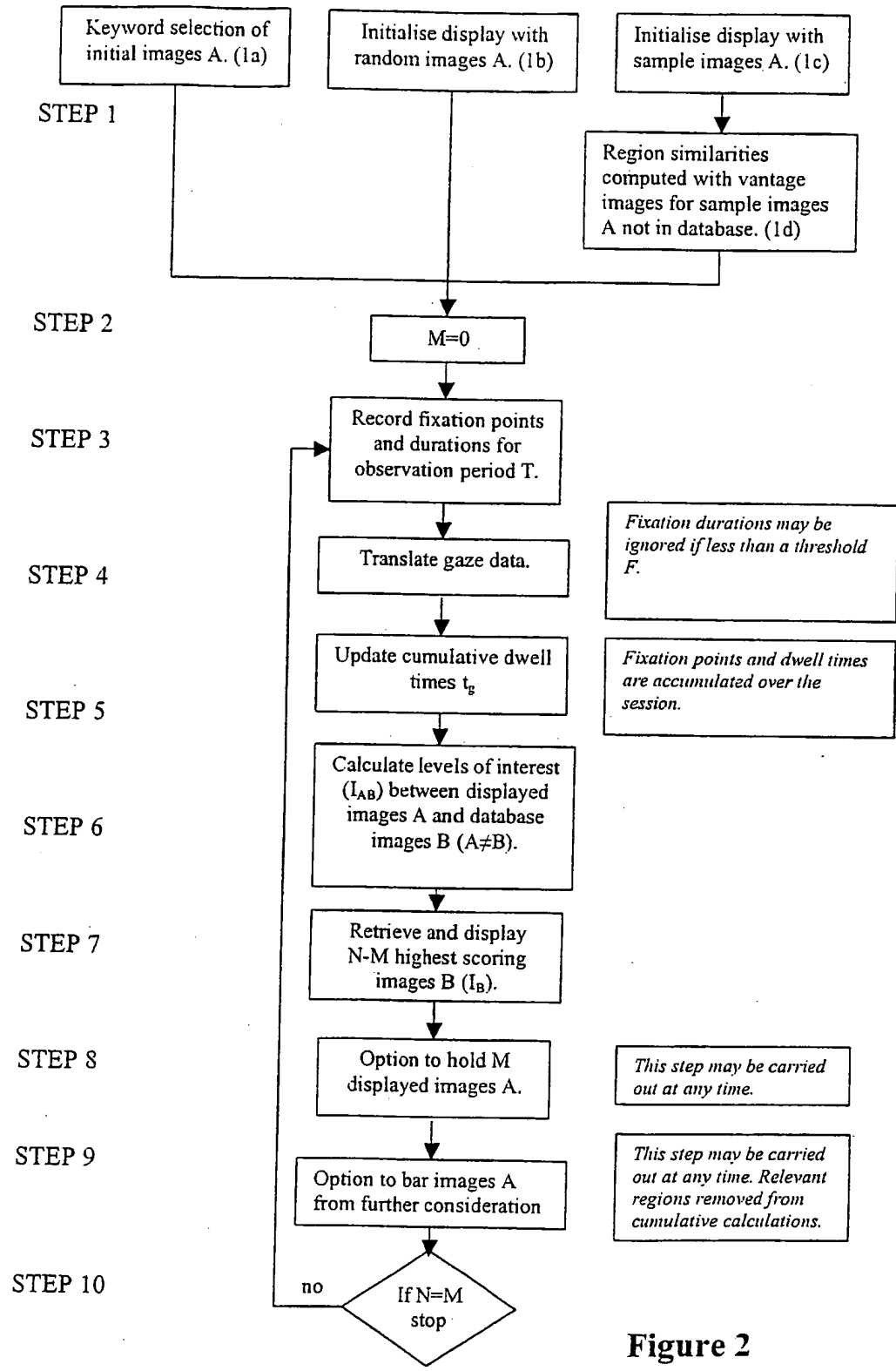


Figure 2